



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2009 Biennium

<b>Bill #</b>	SB0306	<b>Title:</b>	Eliminate death penalty
<b>Primary Sponsor:</b>	Harrington, Dan	<b>Status:</b>	As Introduced

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2  | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<b>Expenditures:</b>				
General Fund				
<b>Revenue:</b>				
General Fund		UNABLE TO QUANTIFY		
<b>Net Impact-General Fund Balance:</b>				

### Description of Fiscal Impact:

The Office of the State Public Defender (OPD) has the statutory obligation to represent individuals charged with a crime that cannot afford to hire counsel as per 47-1-111, MCA. In certain cases a client is charged with a crime that if convicted, the state is recommending that the death penalty apply. The impact to the office workload, due to the elimination of the death penalty cannot be quantified. Death penalty cases may also take more time and have more outside expenses for the Department of Justice— this information is not available at the time of this writing. In addition, a fiscal impact would arise from the cost per day of housing an inmate serving a life sentence versus the cost of execution.

### FISCAL ANALYSIS

#### Assumptions:

##### **Department of Corrections**

1. There are currently two inmates on death row at Montana State Prison. The average number of years spent on death row to date for these inmates is 19 years.
2. The estimated cost of an execution is \$43,560 based on the average cost of the last three executions.

3. Because of the appeal process, it is unlikely any executions will occur in the 2009 biennium or the 2011 biennium.

**Office of the Public Defender (OPD)**

4. There are currently 4 ongoing cases in OPD's caseload as of July 1, 2006 through December 31, 2006.
5. Outside attorney costs are often required for these cases at a cost of \$120/hour vs. \$60/hour.
6. There are also "death penalty" training courses that are required by law and any attorney that litigates one of these cases has to be "death penalty" certified.
7. Given the dynamic nature of caseload in the office, the overall impact of the elimination of the death penalty is unknown.

**Department of Justice – Office of the Attorney General**

8. There was no information provided regarding fiscal impact for the cost of litigating death penalty appeals so none is shown. The agency stated that there is no tracking of staff attorney time involved on death penalty appeals but acknowledge that those cases are considerably more costly than "normal" cases as they do require more staff attorney time.

**Long-Range Impacts:**

**Department of Corrections**

1. The average length of time from sentencing to execution is 16 years.
2. The average life expectancy for males is currently 75.02 years.
3. The average age of the two inmates on death row is 46.
4. If the death penalty were abolished, the Department of Corrections would incur the cost of incarcerating two individuals for an average of 29 years (life expectancy less age at incarceration of current death row inmates less time already served).
5. The general fund cost for the incarceration of a male inmate is approximately \$27,696 per year.
6. The cost of incarcerating two inmates for 29 years at \$27,696 per year would be \$1,607,476.

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*Sponsor's Initials*

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*Date*

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*Budget Director's Initials*

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*Date*